

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Nathaniel Johnson, et al.,

Plaintiff,

vs.

KB Home, et al.,

Defendant.

No. CV-09-972-PHX-FJM

ORDER

The court has before it “Plaintiffs’ Motion to Compel Discovery Responses from Countrywide Defendants” (doc. 128), “Country Wides’ Response” (doc. 132), and “Plaintiffs’ Reply” (doc. 136). Also before the court is “Plaintiffs’ Motion to Compel Discovery Responses from KB Home (doc. 134), “Defendant KB Home’s Opposition to Plaintiffs’ Motion to Compel” (doc. 138), and “Plaintiffs’ Reply” (doc. 143).

Plaintiffs contend that the defendants have delayed reasonable discovery responses. Countrywide contends that it produced the requested report on February 19, 2010, and it produced the requested electronically stored information. Plaintiffs contend that the issues are not moot because the defendants have still failed to comply.

We cannot know who is right and who is wrong here. We do note that there is no objection to the discovery sought. We also note that the Rule 16 order will not be amended due to case processing problems. Accordingly, IT IS ORDERED to the extent that the

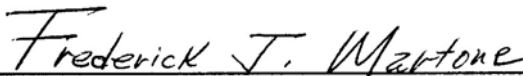
1 Countrywide defendants have not already produced the requested documents, they shall do
2 so no later than 12:00 p.m. MST on March 10, 2010. To that extent plaintiffs' motion is
3 GRANTED (doc. 128).

4 Plaintiffs also ask that KB Home produce the result of its search for documents
5 within three days and designate their relationship to the document requests. KB contends
6 that Rule 34 allows them to produce the documents in the usual course of business and they
7 will have done so by March 8, 2010. Plaintiffs contend that KB Home's production is
8 insufficiently timely to allow plaintiffs to complete their expert disclosures by the due date.

9 Plaintiffs may make its expert disclosures by the due date with the documents it
10 already has. They will be able to finally supplement changes in expert witness opinions and
11 all exhibits by the June 4, 2010 date set forth in the Rule 16 order.

12 IT IS ORDERED DENYING "Plaintiffs' Motion to Compel Discovery Responses
13 from KB Home" in part and GRANTING it in part (doc. 134). Defendants will complete
14 their document production as rapidly as humanly possible. Plaintiffs shall make their expert
15 disclosures based upon what they have by the existing due date.

16 DATED this 5th day of March, 2010.

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20 Frederick J. Martone
21 United States District Judge
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